

Commission on Common Ownership Communities
 Minutes of the Monthly Meeting
 1401 Rockville Pike, 5th Floor, Rockville, MD 20850
September 5, 2018

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:10pm by Chairman Mark Fine.

Commissioners present: Branda, Burrows, Ethier, Fine, Fishbein, Gardner, Gelfound, Oxendine, Perper, Steinbach, Valley, & Viney [& Brian Fellner, Panel Chair];

Commissioners absent: Malamud, Myo Khin, & Winegar

Staff present: Walter Wilson, Associate County Attorney, **Tim Goetzinger**, DHCA Chief of Finance and Administration, and Mark Anders

Guests: Alexandra Levin [Leisure World], Lucille West [Leisure World], Carole Portis [Leisure World], Sheryl Katzman [Leisure World], Manoli Anagnostianos [Wintergate at Longmead], & Sheila Snell [Wintergate at Longmead]

1. **Chairman's report:** Commissioner Gelfound made a motion to amend the agenda to allow the Chair to give his report at the outset of the meeting; motion seconded & approved by unanimous vote. Chairman Fine read a statement regarding delays in the nomination and appointment of new commissioners, and the re-appointment of first-term commissioners. [*Chair's full statement attached*]. As a result of these delays, and in an abundance of caution, Commissioner Gardner moved to accept the minutes of the August 1, 2018 Commission meeting as presented, thereby reaffirming all business conducted and all cases accepted in that meeting. Commissioner Fishbein seconded; with no discussion, motion was approved by majority vote, Commissioner Gelfound abstained, Commissioner Valley opposed.

Commissioner Viney read a brief statement and moved that the Commissioners show their approval of the Chairman's handling of this matter with a vote of confidence. Commissioner Burrows seconded; with no discussion, motion was approved by majority vote, Commissioner Valley abstained.

2. **Open Forum:** n/a

3. **Cases for consideration:**

Default cases:

- 2018-087 Churchill East Community Association v. Kapche - Commissioner Gardner moved to accept jurisdiction and refer the case to a default hearing; motion passed by unanimous vote.

Cases for jurisdiction:

- 2018-102 Dixon v. Montgomery Chase Condominium – After discussion, Commissioner Viney moved to accept jurisdiction and refer the case to a hearing panel; motion accepted by majority vote, Commissioners Gelfound, Oxendine, and Branda opposed.
- 2018-103 Snell v. Wintergate at Longmead
- 2019-003 Anagnostianos v. Wintergate at Longmead – After discussion, Commissioner Gelfound moved to consolidate the two cases; motion accepted by unanimous vote. Commissioner Fishbein moved to accept jurisdiction and refer it to an expedited hearing panel; motion accepted by unanimous vote.

4. **D&Os Issued:** n/a
5. **D&O on Appeal:**
 - 2018-040/2018-061 Dillin/Nadri v. The Willoughby of Chevy Chase – hearing scheduled before the Circuit Court 24th Dec. 2018
 - 2018-037 Hypolite v. Longmead Crossing HOA
6. **County Attorney's report:**
 - Regarding 2018-037 Hypolite v. Longmead Crossing HOA Commissioner Ethier moved to recommend that the county not intervene in the case, seconded, motion accepted by majority vote, Commissioner Oxendine abstained.
 - Mr. Wilson also recommended that the Lift/Stay Panel should only grant or deny motions to lift stays, not opine on facts of the case.
7. **DHCA Staff report:** Mr. Goetzinger presented the monthly data statistics report
8. **Chair's report** [continued]:
 - New appointments to the CCOC must take the Commission and Director training, Open Meetings Act training, and Parliamentary Procedure training within 30 days of appointment to Commission; current commissioners must take the Parliamentary Procedures training within 90 days.
 - CCOC "law library" upload complete on discs and on readers for commissioners;
 - Jacob Esterque [DHCA/IT] will contact commissioners and panel chairs to set-up and train on the new e-readers;
 - Decisions & Orders list being cross-referenced for searching back to 2010.
 - CAI NJ has asked about our training program, while CAI National is launching their own training program... using our program! Letter to be sent to CAI National asserting MOCO copyright.
9. **Committee Reports:**
 - Education Committee report: Commissioner Viney reported on an upcoming DHCA Landlord-Tenant forum to be held at the Silver Spring Civic Center on both Oct 18 & 27, 2018. CCOC will be represented. The committee was given a presentation by the MOCO Green Bank and will share information about the bank's services in a special edition of the CCOC Newsletter. Closing dates for submissions to the CCOC Newsletter are:
 Aug 15th for the Sept/Summer issue, Nov 15th for the Dec/Fall issue,
 Feb 15th for the March/Winter issue, May 15th for the June/Spring issue
 The committee is promoting its classroom style, in-person, Board Training class.
 - Legislation Committee report: n/a
 - Process & Procedures report: n/a
 - IT Committee report: Commissioner Burrows described the benefits of using the e-readers at meetings and hearings. Development of a new CCOC website is ongoing.
10. **New business:** Commissioner Branda moved to change the January meeting date from Wednesday, January 2, 2019 to Wednesday, January 9, 2019; motion approved by unanimous vote.
11. **Adjournment:** Meeting adjourned at 8:44pm. Next meeting: Wednesday, October 3, 2018 at 7:00pm.

Submitted by Commissioner Kathy Viney
Recording Secretary

Chairman's statement:

I am requesting that tonight's agenda be changed to move the Chairman's report to the beginning of the meeting, so that I may go on record prior to the approval of the August minutes.

I sent a memo to the Commission last week and I would like to read this statement into the record before asking for a motion to re-affirm actions taken by the Commission in August.

As everyone is aware, I became Chairman in January 2018. At that time the Commission had several vacancies due to term limits and resignations. Along with that, we also had four (4) Commissioners who's first (1) term expired on January 31.

Under the County Code, specifically Sec. 2-148. Appointments, removals, and training. (a)(4) "A member must not continue to serve on a group after the member's term has expired, and a successor has not been appointed and confirmed, for more than 6 months ..." (July 31). Unfortunately, due to circumstances beyond everyone's control, the paperwork to interview new CCOC Commissioners and the renewal of current CCOC Commissioners was "backlogged" along with other Commissions, Boards and Committees. Therefore, our interview process started late (in June). The interview committee turned the documents around as fast as possible and had the package back to the Executives' Office within about 30 days after receiving 25+ resumes. (Also unfortunately, at this point the Council was on recess)

To complicate matters further, I had to confer with the Office of the County Executive due to a CCOC Commissioner stepping outside of the guidelines and challenging Commissioner re-appointments rather than talking to the Commission Chair. The process could not move forward until this matter was resolved.

The Office of the County Executive advised me in August, prior to the CCOC Meeting that they had accepted the Commission Chair and the Committee's recommendations for appointments and they would be forwarding them to the Council. The Council is just now in session again, and will take the "ratification" of the appointments on September 25th.

I have spoken to the Office of the County Executive and the Office of the County Attorney several times during this process and have been assured by the Office of the County Executive that all commissioners who this office sent for reappointment are scheduled to be reappointed. I mentioned this fact in the beginning of the August CCOC meeting. At this time, I would like to read an email dated August 31, 2018 from the office of the County Executive into the record which states AND I QUOTE...

Dear Mark,

The four incumbent members up for reappointment, Ilana Branda, Michael Burrows, David Gardner, and Kathleen Viney, are members in good standing and are expected to perform their duties as board members per the Commission on Common Ownership Communities legislation, until reappointed or replaced. The incumbents have already been nominated for reappointment by County Executive Leggett and are expected to be confirmed at the County Council's September 25, 2018 session. Please contact me if you have any other questions.

Constantia B. Latham
Special Assistant to County Executive Isiah Leggett
Montgomery County, Maryland
Phone: (240) 777-2548

It is my understanding that in accordance with Section 2-148, this document has also been sent to the Council. Sec. 2-148 A 4 (B) states “(4) A member must not continue to serve on a group after the member’s term has expired, and a successor has not been appointed and confirmed, for more than 6 months unless: *the Executive has notified the Council why the member will continue to serve on the group.*” Again, I have been advised that the Council is in receipt of this document authorizing the re-appointments.

I have now been told that a complaint has been lodged regarding last months’ meeting, that as we had a commissioner absent, I presided over an ILLEGAL commission meeting having had only seven (7) active commissioners in attendance. Again, I explained in the beginning of that August meeting that I had spoken with the Executives office and was given the go ahead to have our meeting. I just wish the Commissioner who lodged the complaint would have reached out to me rather than bypassing the Chair; this seems to be a pattern, as this has been done in the past.

This Commission was formed to serve the citizens of the common ownership communities of Montgomery County and since I assumed the role as Chairman in January I have done what I thought was best for the County, the COC community and the Commission on Common Ownership Communities. I take full responsibility for the error in not having the Commissioners appointed and reappointed in a timely fashion and will accept any consequences that come from this. So please accept my apology for my actions.

In closing, I would like to ask that we, as a Commission, follow protocol. Commissioners are required to contact the Chair to discuss concerns prior to contacting other agencies within the County. We need to spend more time attending to our Commission duties, and focus on our mission, which is to educate, legislate, and mediate for the citizens of the common ownership communities of Montgomery County MD. Thank you.

I would now entertain a motion to accept the minutes of the August 1, 2018 meeting and, specifically, to reaffirm all cases approved in that meeting. This will stop any possible challenge from any litigation of any case that we have taken jurisdiction over during the time our quorum was challenged.

Respectfully submitted by
Mark Fine, Chairman
September 9, 2018